

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA <i>ex rel.</i>)	
JEFFREY H. LIEBMAN and DAVID M.)	
STERN, M.D.,)	Case No.: 3:17-cv-00902
)	
Plaintiff,)	District Judge William L.
)	Campbell, Jr.
v.)	
)	Magistrate Judge Barbara D.
METHODIST LE BONHEUR HEALTHCARE)	Holmes
and METHODIST HEALTHCARE-MEMPHIS)	
HOSPITALS,)	
)	
Defendants.)	

**METHODIST’S RESPONSE IN OPPOSITION TO
RANDEL PAGE JR.’S MOTION TO INTERVENE**

Defendants Methodist Le Bonheur Healthcare and Methodist Healthcare – Memphis Hospitals (collectively, “Methodist”) submit this Response in Opposition to Randel Page Jr.’s Motion to Intervene, (Dkt. No. 339, the “Motion”). The Motion should be denied with prejudice.

On November 2, 2022, Mary Page filed a *pro se* motion to intervene (Dkt. No. 283), which, for the reasons set forth in Methodist’s response (Dkt. No. 295), should be denied with prejudice. On May 17, 2023, Randel Page Jr. filed a similar *pro se* motion to intervene, (Dkt. No. 339.) Randel Page Jr.’s motion should also be denied with prejudice for the same reasons set forth in Methodist’s response in opposition to Mary Page’s motion to intervene. (*See* Dkt. No. 295.)

Page Jr. is barred under the False Claims Act (“FCA”). Page Jr. has not followed FCA statutory requirements to file a complaint under seal and serve it on the United States. *See* 31 U.S.C. § 3730(b). Page Jr. also seeks to intervene *pro se*, but a relator cannot proceed *pro se* under the FCA. *See, e.g., Wojcicki v. SCANA/SCE&G*, 947 F.3d 240, 244-46 (4th Cir. 2020); *Georgakis v. Ill. State Univ.*, 722 F.3d 1075, 1077 (7th Cir. 2013); *Timson v. Sampson*, 518 F.3d 870, 873-74

(11th Cir. 2008); *U.S. ex rel. Mergent Servs. v. Flaherty*, 540 F.3d 89, 92-93 (2d Cir. 2008); *Stoner v. Santa Clara Cnty. Office of Educ.*, 502 F.3d 1116, 1126-28 (9th Cir. 2007). The FCA’s first-to-file bar also prohibits Page Jr. from intervening as a plaintiff. 31 U.S.C. § 3730(b)(5).

Page Jr. cannot intervene under Fed. R. Civ. P. 24. Page Jr. does not have a “substantial legal interest” in the subject matter of this case. Page Jr.’s conclusory allegations about theft of his “identity, intellectual properties and ideas by the defendants,” (Dkt. No. 339 at 3), do not show a substantial interest in this FCA litigation. The United States, which has already intervened, is the real party in interest in an FCA *qui tam* lawsuit. *See* 31 U.S.C. 3730(b)(1) (“The action shall be brought in the name of the Government.”). Furthermore, the United States’ intervention in the case necessarily forecloses any other parties, including the Relators, from actively conducting the litigation. *See* 31 U.S.C. § 3730(c)(1) (providing when government elects to intervene in a *qui tam*, “it shall have primary responsibility for prosecuting the action”); *see also U.S. ex rel. Brooks v. Stevens-Henegar Coll., Inc.*, 359 F. Supp. 3d 1088, 1116 (D. Utah 2019) (“The statute is unambiguous. If the Government intervenes in the action, it must conduct the action . . . [T]he Government’s complaint in intervention superseded the relators’ amended complaint, and any pleading subsequently filed by the relators lacked legal effect.”).

Page Jr.’s motion is also untimely. *See U.S. ex rel. Hayward v. Savaseniorcare, LLC*, 2020 WL 13517503, at *2 (M.D. Tenn. Oct. 22, 2020) (Campbell, J.) (holding motion to intervene untimely where, *inter alia*, motion was made after government intervention, substantial discovery, and dispositive motions).

For these reasons, each of which represents an independent basis for denying intervention, Methodist respectfully requests the Court enter an Order denying with prejudice Randel Page Jr.’s Motion to Intervene.

Dated: May 31, 2023.

Respectfully submitted,

/s/ Brian D. Roark

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been served on the following counsel via the Court's CM/ECF email notification system on this the 31st day of May, 2023:

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I hereby certify that a true and exact copy of the foregoing has been served on the proposed Plaintiff-Intervenor at the address below via U.S. mail:

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